

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

SHARON HALEY, guardian/parent
and next best friend of JEROME
DAVIS, a minor

PLAINTIFF

VERSUS

CIVIL ACTION NO. 5:05cv113-DCB-JCS

FORD MOTOR COMPANY

DEFENDANT

MEMORANDUM OPINION AND ORDER TO SHOW CAUSE; SANCTION WARNING

On October 18, 2005, the Court entered an order [docket entry no. 9] directing the plaintiff to file a Notice within five (5) days indicating whether or not she intended to file a binding affidavit limiting her recovery below the jurisdictional amount of this Court. After the plaintiff failed to respond to that order, the Court entered another order [docket entry no. 10] directing both parties to provide this Court with evidence regarding the plaintiff's damages. The defendant timely responded to that order and has provided the Court with all such evidence in its possession. The defendant notes in its response that because discovery has been stayed in this proceeding, "Ford has been unable to obtain information regarding plaintiff's damages through any other means than through the pleadings[.]" Def. Notice Regarding Damages, at 2. That assertion is incorrect. The order staying the case [docket entry no. 6] specifically allows for remand-related discovery to continue.¹ The defendant may pursue such discovery

¹ Judge Sumner's Order states, "It is hereby ordered that all discovery not relevant to the remand issue . . . is hereby stayed" Order dated July 20, 2005.

and supplement its responses with any information garnered therefrom.

The plaintiff has, once again, failed to respond to an order requiring that she submit evidence regarding her damages. Both the plaintiff and her counsel are hereby WARNED that failure to comply with this and future orders of this Court may result in sanctions. See O'Neill v. AGWI Airlines, 74 F.3d 93 (5th Cir. 1996); Thomas v. Capital Security Services, Inc., 836 F.2d 866 (5th Cir. 1988). Accordingly,

IT IS HEREBY ORDERED THAT the plaintiff shall produce evidence to this Court within seven (7) days of entry of this Order, demonstrating all known and ascertainable damages which the plaintiff may seek in this case, including a description of the extent of Davis' injuries and all medical expenses that he has incurred as a result of the May 30, 2003 motor vehicle accident;

IT IS FURTHER ORDERED THAT the defendant has seven (7) days from the service of the plaintiff's response to show cause to this Court why it has subject matter jurisdiction and that this case should not be remanded to the Circuit Court of Jefferson County, Mississippi;

IT IS FURTHER ORDERED THAT the plaintiff and her counsel are WARNED that failure to comply with this and future Orders may result in sanctions.

SO ORDERED, this the 30th day of November, 2005.

S/DAVID BRAMLETTE

UNITED STATES DISTRICT JUDGE